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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/618,518

07/11/2003

Edward J. Mueller

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EXAMINER

SILBERMANN, JOANNE

ART UNIT

PAPER NUMBER

3611

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/618,518

Applicant(s)

MUELLER, EDWARD J.

Examiner

Joanne Silbermann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26,29-32,34-63 and 66-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26,29-32,34-63,66-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 26, 32, 34, 38, 41, 43, 44, 47, 51, 54, 59-61 are rejected under 35

U.S.C. 102(b) as being anticipated by Sutphen, US #1,878,447.

3. Sutphen discloses a lighted pole and banner assembly comprising translucent support 11 (Figure 2) comprising a hollow cylinder having no openings in its lateral surface, banner assembly 10 (Figure 1) comprising a banner attached to the lateral surface of the cylinder and light sources 14, 15 and 16 each in a section of the cylinder and illuminating the entire length of support 11 between the ends, wherein the banner assembly does not obstruct visibility of the illumination and the light source illuminates the banner.

4. Lights 14, 15 and 16 may be filament lamps and may be different colors such as red white and blue (page 1 line 74).

5. The sections of the pole are integral.

6. The support may include an ornamental design, as in Figure 6.

7. Holder 9 is used to mount the assembly and includes electrical cords (Figure 2).

Claim Rejections - 35 USC § 103

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8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 29, 30, 35-37, 39, 40, 42, 45, 46, 48, 49, 50, 52, 53, 55-57, 63, 66-87, 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutphen.

10. Sutphen does not specifically teach the support as being clear or transparent, however these are considered to be alternatives to translucent. It would have been obvious to a person having ordinary skill in the art to utilize any degree of translucence necessary to provide the desired effect.

11. Sutphen does not teach using LEDs, rope lights, neon, fluorescent lights, or fiber optics. These light sources are all old and well known in the art. It would have been obvious to one of ordinary skill to utilize a different light source as an alternative equivalent. It also would have been obvious to utilize a different light source so as to use less electricity and require less frequent changing of lights.

12. Sutphen does not teach varying brightness, blinking lights, or sequential lighting, however these are common in the art of illuminated displays. Dimmer switches are well known in the art of illumination and blinking and sequential lighting are commonly used. It would have been obvious to utilize a dimmer function for the light sources so that the appropriate amount of illumination may be employed. It also would have been obvious to utilize blinking or sequential lighting to attract attention to the display.

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13. Sutphen does not teach the sections as being separate. It would have been obvious to one of ordinary skill to make the sections from separate pieces since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

14. Sutphen does not specifically teach using a polymeric material or acrylic, however these materials are well known in the art. It would have been obvious to one of ordinary skill in the art to utilize these materials since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

15. Sutphen does not specifically describe the power source, however, given the structure shown in Figure 1, it would have been obvious to one of ordinary skill to utilize a power grid or battery to supply power to the display.

16. Sutphen does not teach any methods, however the methods of the instant claims (providing, disposing, etc.) would have been obvious to one of ordinary skill given the structure shown in Sutphen.

17. Regarding claim 89, the support is mounted to a surface, as shown in Figure 1.

18. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutphen in view of Taylor, US #2,509,707.

19. Sutphen does not teach a luminescent support, however this is well known in the art. Taylor teaches a hollow luminescent support having illumination disposed within the support (Figures 1 and 2). It would have been obvious to one of ordinary skill to

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utilize a luminescent support so as to provide a different looking display, and to provide a support that glows after the light is turned off.

20. Claims 58 and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutphen in view of Howard, US #1,256,232.

21. Sutphen does not teach mounting the support to a transportation vehicle, however this is well known. Howard teaches mounting an illuminated flag and support on a transportation vehicle. It would have been obvious to one of ordinary skill to mount the assembly of Sutphen to a vehicle so that it may be used to provide indication or warning, as taught by Howard.

22. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutphen in view of Siew, US #4, 833,443.

23. Sutphen does not teach a holder having arms, however such a holder is well known in the art. Siew teaches a bracket for mounted an illuminated display including electrical cord 15 accommodated by bracket 7 having space 11 between tow arms (Figure 1). It would have been obvious to one of ordinary skill to utilize such a bracket so that the display may be mounted over a window or other thin object (as shown by Siew).

Response to Arguments

24. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

25. A new rejection has been made based on Applicant's amendments to claims 26 and 63.

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Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patent 6,955,456 has been cited as of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 571-272-6653. The examiner can normally be reached on M-F 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Joanne Silbermann
Primary Examiner
Art Unit 3611

js
02 March 2007